LENAPE TECHNICAL SCHOOL

SECTION: PROGRAMS

TITLE: NONDISCRIMINATION IN EMPLOYMENT/CONTRACT PRACTICES

ADOPTED: April 21, 2005

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February 21, 2019; October 22, 2020
February 15, 2024

104. NONDISCRIMINATION IN EMPLOYMENT/CONTRACT PRACTICES

1. Authority
Title VI, Title IX
29 CFR
P.L. 101-336
42 U.S.C.
Sec. 12101 et seq

The Joint Operating Committee declares it to be the policy of this school to provide to all persons equal access to all categories of employment in this school, regardless of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, genetic information, pregnancy or handicap/disability. The school shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations.

The Joint Operating Committee also declares it to be the policy of this school to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the school may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education or both.

The Joint Operating Committee directs that the foregoing statement of Joint Operating Committee policy be included in each student and staff handbook, and that this policy and related attachment be posted to the school's website.

The Joint Operating Committee requires a notice stating that the school does not discriminate in any manner, including Title IX sexual harassment, in any school education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreement with the school. All discrimination notices and information shall include the title, office address, telephone number and email address of the individual(s) designated as the Compliance Officer and Title IX Coordinator.

<u>Reports of Title IX Sexual Harassment and Other Discrimination and Retaliation</u>

The Joint Operating Committee encourages employees and third parties who believe they or others have been subject to Title IX sexual harassment, other discrimination, or retaliation to promptly report such incidents to the building administrator. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

If the building administrator is the subject of a complaint, the complainant or the individual making the report shall direct the report of the incident to the Title IX Coordinator.

The complainant or the individual making the report may use the Discrimination/Sexual Harassment/Retaliation Report Form attached to this policy for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the relevant attachments followed.

The building administrator shall promptly notify the Title IX Coordinator of all reports of discrimination, Title IX sexual harassment or retaliation. The Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in Attachment 2 to this policy, or if the reported circumstances meet the definition of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other Joint Operating Committee policies.

<u>Disciplinary Procedures when Reports Allege Title IX Sexual Harassment</u>

When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed unto the completion of the grievance process for formal complaints outlined in Attachment 3. The school shall presume that the respondent is not responsible for the alleged conduct until the determination has been made at the completion of the grievance process for formal complaints.

Administrative Leave –

When an employee, based on an individualized safety and risk analysis, poses an immediate threat to health or safety of any student or other individual, the employee may be removed on an emergency basis.

An accused, nonstudent school employee may be placed on administrative leave during the pendency of the grievance process for formal complaints, consistent with all rights under Section 504 of the Rehabilitation Action and the Americans with Disabilities Act, and in accordance with state law and regulations, Joint Operating Committee policy and an applicable collective bargaining agreement or individual contract.

2. Confidentiality	Confidentiality of all parties, witnesses, the allegations, the filing of a report, and the investigation related to any form of discrimination or retaliation, including Title IX sexual harassment, shall be handled in accordance with applicable law, regulations, this policy, the attachments and the school's legal and investigative obligations.
3. Retaliation	The Joint Operating Committee prohibits retaliation by the school or any other person against any person for: 1. Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment. 2. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing. 3. Acting in opposition to practices the person reasonably believes to be discriminatory. The school, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the Title IX Coordinator immediately if they believe retaliation has occurred.
4. Definitions	**Complainant** shall mean individual who is alleged to be the victim. **Respondent** shall mean an individual alleged to be the perpetrator of the discriminatory conduct. **Discrimination** shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, genetic information, pregnancy or handicap/disability. **Harassment** is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related work performance including when: 1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or 2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or 3. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complaint's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an

intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

Definitions Related to Title IX Sexual Harassment

Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the school investigate the allegation under the grievance process for formal complaints. The authority for the Title IX Coordinator to sign a formal complaint does not make the Title IX Coordinator a party in the grievance process for formal complaints. The phrase "document filed by a complainant" refers to a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Supportive measures shall mean nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures shall be designed to restore or preserve equal access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to:

a. Counseling or Employee Assistance Program.
b. Extensions or deadlines or other course-related adjustments.
c. Modifications of work or class schedules.
d. Campus escort services.
e. Mutual restrictions on contact between the parties.
f. Changes in work locations.
g. Leaves of absence.
h. Increased security.
i. Monitoring of certain areas of the campus.
j. Assistance from domestic violence or rape crisis programs.
k. Assistance from community health resources including counseling resources.

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

a. A school employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment.
b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a school education program or activity.
c. Sexual assault, dating violence, domestic violence or stalking.

	d. Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors: i. Length of relationship. ii. Type of relationship. iii. Frequency of interaction between the person involved in the relationship. **Domestic violence** includes a felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. **Sexual assault** means a sexual offense under state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. **Stalking**, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either: a. Fear for their safety or the safety of others. b. Suffer substantial emotional distress. Such conduct must have taken place during a school education program or activity and against a person in the United States to qualify as sexual harassment under Title IX. An education program or activity includes the locations, events, or circumstances over which the school exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of a school's education programs or activities, whether such programs or activities occur on-campus or off-campus.
5. Delegation of Responsibility	In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Joint Operating Committee shall designate~~s~~ a Compliance Officer and a Title IX Coordinator. The same individual may fulfill both roles. The Joint Operating Committee designates Autumn Weleski as the school's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at: Address: 2215 Chaplin Avenue, Ford City, PA 16226

	Email: weleaut@lenape.k12.pa.us Phone Number: 724.763.5920 The Compliance Officer and Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the school's nondiscrimination procedures in the following areas, as appropriate: 1. Review ~ Review of personnel practices and actions for discriminatory bias and compliance with laws against discrimination to include monitoring and recommending corrective measures when appropriate to written position qualifications, job descriptions and essential job functions; recruitment materials and practices; procedures for screening applicants; application and interviewing practices for hiring and promotions; school designed performance evaluations; review of planned employee demotions, non-renewal of contracts, and proposed employee disciplinary actions up to and including termination. 2. Training ~ Provide training for supervisors and staff to prevent, identify and alleviate problems of employment discrimination. 3. Resources ~ Maintain and provide information to staff on resources available to alleged victims in addition to the school complaint procedure or Title IX procedures, such as making reports to the police, available supportive measures such as assistance from domestic violence or rape crisis programs, and community health resources including counseling resources. 4. Reports/Formal Complaints ~ Monitor and provide technical assistance to individuals involved in managing informal reports and formal - complaints.
6. Guidelines	Title IX Sexual Harassment Training Requirements The Compliance Officer and Title IX Coordinator, investigator(s), decision-maker(s), or any individual designated to facilitate an informal resolution process related to Title IX sexual harassment shall receive the following training, as required or appropriate to their specific role: a. Definition of sexual harassment. b. Scope of the school's education program or activity, as it pertains to what is subject to Title IX regulations. c. How to conduct an investigation and grievance process for formal complaints, including examination of evidence, conducting hearings (if applicable), drafting written determinations, handling appeals and informal resolution processes, as applicable. d. How to serve impartially, including by avoiding prejudgment of the facts at

issue, conflicts of interest and bias.

e. Use of relevant technology.
f. Issues of relevance including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
g. Issues of relevance, weight of evidence and application of standard proof and drafting investigative reports that fairly summarize relevant evidence.
h. How to address complaints when the alleged conduct does not qualify at Title IX sexual harassment but could be addressed under another complaint process or Joint Operating Committee policy.

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

All training materials shall be posted on the school's website.

Disciplinary Consequences

An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Joint Operating Committee policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral to law enforcement officials.

Reports of Discrimination

Any reports of discrimination that are reviewed by the Title IX Coordinator and do not meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion, sex, sexual orientation, ancestry, genetic information, national origin, marital status, pregnancy or handicap/disability shall follow the Discrimination Complaint Procedures in Attachment 2 to this policy.

Reports of Title IX Sexual Harassment

Any reports deemed by the Title IX Coordinator to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3 of this policy.

PSBA Revision 12/18
Legal References:

1. 20 U.S.C. 1681 et seq
2. 29 U.S.C. 206
3. 29 U.S.C. 621 et seq
4. 29 U.S.C. 794
5. 42 U.S.C. 12101 et seq
6. 42 U.S.C. 1981 et seq
7. 42 U.S.C. 2000e et seq
8. 42 U.S.C. 2000ff et seq

	9. 43 P.S. 336.3 10. 43 P.S. 951 et seq 11. U.S. Const. Amend. XIV, Equal Protection Clause 12. Pol. 317 13. Pol. 806 14. Pol. 824 15. 29 CFR 1604.11 16. 29 CFR 1606.8 17. EEOC Enforcement Guidance on Harris V. Forklift Sys., Inc. Nov. 9, 1993 18. EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 18, 1999 19. EEOC Policy Guidance on Current Issues of Sexual Harassment, March 19, 1990 20. 18 Pa. C.S.A. 2709 21. Pol. 815 22. 16 PA Code 44.1 et seq 23. 28 CFR 35.140 24. 28 CFR Part 41 25. 29 CFR Parts 1600-1691 26. 20 U.S.C. 1232g 27. 20 U.S.C. 1092 28. 34 CFR 106.30, 106.44, 106.45, 106.71 29. 34 CFR Part 99 30. 34 U.S.C. 12291 31. Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998) 32. Faragher v. City of Boca Raton, 524 U.S. 775 (1998)